IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 51404-M of 2006

DATE OF DECISION : 27.10.2006

Jaswinder Singh

.... PETITIONER

Versus

State of Haryana

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Narinder Singh, Advocate,
for the petitioner.

Mr. S.S. Mor, Senior DAG, Haryana.

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Petitioner Jaswinder Singh has filed this petition under Section 482 of the Code of Criminal Procedure for release of motor cycle No. PB-11Z-7742 on sapurdari, which was impounded in case FIR No. 133 dated 5.7.2006 under Section 15 of the NDPS Act, registered at Police Station Guhla, District Kaithal.

The petitioner is the owner of the aforesaid vehicle. As per the prosecution version, 1.5 Kg. of poppy husk was recovered from this vehicle. The trial in the case is going on. However, same is not likely to conclude soon. During the pendency of the trial, the petitioner moved application for releasing the said vehicle on sapurdari, which has been dismissed by the trial court, vide impugned order in view of the provisions of Section 60, 63 and 43 of the NDPS Act.

Counsel for the petitioner contends that in the aforesaid FIR, a false case has been planted by the police and recovery of 1.5 Kg. of poppy husk has been shown from the motor cycle owned by the petitioner. He further submits that the petitioner is owner of this vehicle. He contends that conclusion of trial will take a long time and in case, the motor cycle is not released, it will damage its condition. He further submits that the petitioner is ready to give an undertaking that he will not sell or change its condition during the pendency of the case and as and when the court requires the

aforesaid motor cycle, he will produce the same in the same condition before the concerned court. Counsel further relied upon a decision of the Supreme Court in ***Sunderbhai Ambalal Desai*** v. ***State of Gujarat,*** 2003 (1) RCR (Crl.) 380 and decision of this Court in ***Roop Chand and Company*** vs. ***State of Punjab,*** 1996 (1) RCR (Criminal) 401.

I have heard counsel for the parties.

Undisputedly, the trial in the aforesaid case is still pending before the trial court. At present, the vehicle is standing in the police station. No useful purpose will be served, if it is allowed to remain in the police station and it will also result into its damage.

Thus, keeping in view the aforesaid facts and the law laid down by the Apex Court in ***Sunderbhai Ambalal Desai's case*** (supra) and in view of the undertaking given by the petitioner, as indicated above, it will be in the interest of justice if the said vehicle is ordered to be given on sapurdari to the petitioner on his furnishing proper undertaking.

Accordingly, this petition is allowed, the impugned order dated 10.8.2006, passed by Judge, Special Court, Kaithal, is set aside and motor cycle No. PB-11Z-7742 is ordered to be released on sapurdari to the petitioner on his executing personal bond in the sum of Rs. 30,000/- with one surety in the like amount and the undertaking to the effect that he will not sell or change the condition of the above said vehicle and as and when the trial court requires it, the petitioner will produce the same in the same condition at his own cost before the concerned court. He shall also furnish undertaking to the effect that in future, he will not allow his aforesaid vehicle to be used for such an offence.

October 27, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**